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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,118	06/16/2006	Lothar A. Brassard	683105-1US (cBT001/2003US)	8886
570 7590 01/05/2010 PANITCH SCHWARZE BELISARIO & NADEL LLP ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103				
EXAMINER MELLON, DAVID C				
ART UNIT		PAPER NUMBER		
1797				
NOTIFICATION DATE		DELIVERY MODE		
01/05/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptomail@panitchlaw.com

### Office Action Summary

**Application No.**

10/564,118

**Applicant(s)**

BRASSARD, LOTHAR A.

**Examiner**

DAVID C. MELLON

**Art Unit**

1797

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 24-26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-18, 20-23 and 27 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. **This application is in condition for allowance except for the following formal matters:**

***Election/Restrictions***

2. This application is in condition for allowance except for the presence of claims 24-26 directed to an invention non-elected with traverse in the reply filed on 11/4/2009. Applicant is given TWO MONTHS from the date of this letter, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Extensions of time will be permitted.

The prosecution of this case is closed except for consideration of the above matter and other issues presented in this Office Action.

***Drawings***

3. The drawings are objected to because they contain items related to New Matter objections discussed below. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after

the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The amendment filed 11/4/2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: In the specification amendment submitted:

paragraph number 5 presents new matter by reference to items including cogwheels, friction wheels, bearings and the related linking descriptive matter between the items.

Paragraph number 6 presents new matter by reference to gear racks, cogwheels, belt drives, and other items not supported by the original disclosure.

Paragraph number 9 presents new matter by reference to description of the micro-titer plates such that they have a plurality of depressions not previously disclosed or supported.

Paragraph number 10 presents new matter by reference to guide rails and related linking structural discussion as well as discussion of the driving rod and related

features. Further new matter includes discussion of the processor acting as "common control".

If Applicant disagrees with characterization of New Matter, Applicant should show the exact location in the original disclosure which supports each and every aspect added.

Applicant is required to cancel the new matter in the reply to this Office Action.

#### ***Claim Objections***

5. Claim 19 is objected to because of the following informalities: the phrase "the at least holder" presents improper antecedent basis to claim 18's "the at least one holder". Correction in claim 19 with "the at least one holder" is suggested. Appropriate correction is required.

#### ***Response to Arguments***

6. Applicant's arguments, see arguments, filed 11/4/2009, with respect to 102(b) rejection of claim 1 in view of Franzreb have been fully considered and are persuasive. The rejection of claim 1 has been withdrawn.

7. Applicant's arguments filed 11/4/2009 have been fully considered but they are not persuasive with regards to the restriction requirement.

Applicant alleges the special technical feature is not shown in Franzreb. This argument is not persuasive as claim 24 does not require all the features of claim 1. Additionally, Applicant's arguments are ineffective because the filter (8) of Franzreb can be interpreted to represent the required bar of claim 24. Furthermore, Applicant has not explicitly established that the special technical feature identified by the

Examiner was incorrect, merely that Franszreb does not disclose all features of claim 1. Since claim 24 does not require all features of claim 1, there remains reason for restriction. Finally, restriction remains proper when the method of use and the apparatus are distinct and not positively tied to one another. E.g. the apparatus as claimed can be used for another and materially different process.

### ***Conclusion***

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID C. MELLON whose telephone number is (571)270-7074. The examiner can normally be reached on Monday through Thursday 9:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on (571) 272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tony G Soohoo/  
Primary Examiner, Art Unit 1797

/D. C. M./  
Examiner, Art Unit 1797